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(2) Show that a guardian has been appointed to manage the minor's property and the applicable program documents are executed by the guardian; or

(3) Furnish a bond under which the surety guarantees any loss incurred for which the minor would be liable had the minor been an adult.

§ 1470.215 Death, incompetency, or disappearance.

In the case of death, incompetency, disappearance or dissolution of a person that is eligible to receive benefits in accordance with this part, such person or persons specified in part 707 of this chapter may receive such benefits, as determined appropriate by FSA.

§ 1470.216 Maintenance and inspection of records.

(a) Persons making application for benefits under this program must maintain accurate records and accounts that will document that they meet all eligibility requirements specified herein, as may be requested by CCC. Such records and accounts must be retained for 3 years after the date of payment to the apple operation under this program. Destruction of the records 3 years after the date of payment shall be at the risk of the party undertaking the destruction.

(b) At all times during regular business hours, authorized representatives of CCC, the United States Department of Agriculture, or the Comptroller General of the United States shall have access to the premises of the apple operation in order to inspect, examine, and make copies of the books, records, and accounts, and other written data as specified in paragraph (a) of this section.

(c) Any funds disbursed pursuant to this part to any person or operation who does not comply with the provisions of paragraphs (a) or (b) of this section, or who otherwise receives a payment for which they are not eligible, shall be refunded with interest.

§ 1470.217 Refunds; joint and several liability.

(a) In the event of an error on an application, a failure to comply with any term, requirement, or condition for payment arising under the application,

or this subpart, all improper payments shall be refunded to CCC together with interest and late payment charges as provided in part 1403 of this title.

(b) All persons signing an apple operation's application for payment as having an interest in the operation shall be jointly and severally liable for any refund, including related charges, that is determined to be due for any reason under the terms and conditions of the application or this part with respect to such operation.

§ 1470.218 Violations of highly erodible land and wetland conservation provisions.

The provisions of part 12 of this title apply to this subpart.

PART 1476—CRANBERRY MARKET LOSS ASSISTANCE PAYMENT PROGRAM

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AUTHORITY: Sec. 816, Pub. L. 106-387, 14 Stat. 1549; sec. 203(d)(1), Pub. L. 106-224, 7 U.S.C. 1421 note; 15 U.S.C. 714 et seq.

SOURCE: 66 FR 15183, Mar. 15, 2001, unless otherwise noted.

§ 1476.1 Applicability.

(a) The regulations in this part are applicable to the 1999 crop of cranberries. These regulations set forth the terms and conditions under which the Commodity Credit Corporation (CCC) shall provide payments to cranberry growers who have applied to participate in the Cranberry Market Loss Assistance Payment Program in accordance with section 816 of Public Law

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106–387. Additional terms and conditions are set forth in the payment application that must be executed by participants to receive a cranberry payment.

(b) Payments shall be available only for cranberries produced and harvested in the United States.

§ 1476.2 Administration.

(a) The Cranberry Market Loss Payment Program shall be administered under the general supervision of the Executive Vice President, CCC, and shall be carried out by FSA's Price Support Division (PSD) and Kansas City Management Office (KCMO).

(b) The PSD and KCMO and representative and employees thereof, do not have the authority to modify or waive any of the provisions of the regulations of this part.

(c) No provision or delegation of this part to PSD or KCMO shall preclude the Executive Vice President, CCC, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by PSD or KCMO.

(d) The Executive Vice President, CCC or a designee, may waive or modify deadlines and other program requirements in cases where lateness or failure to meet such other requirements do not affect adversely the operation of the Cranberry Market Loss Assistance Payment Program.

(e) A representative of CCC may execute the Cranberry Market Loss Assistance Payment Program applications and related documents only under the terms and conditions determined and announced by CCC.

(f) Payment applications and related documents not executed in accordance with the terms and conditions determined and announced by CCC, including any purported execution outside of the dates authorized by CCC, shall be null and void unless the Executive Vice President, CCC, shall otherwise allow.

§ 1476.3 Definitions.

The definitions set forth in this section shall be applicable for purposes of administering the Cranberry Market Loss Assistance Payment Program.

Agricultural Marketing Service or AMS means the Agricultural Marketing Service of the Department.

Application means the Cranberry Market Loss Assistance Program payment application, CCC.

Application period means a period, to be announced by CCC, during which applications for payments under the Cranberry Market Loss Assistance Payment Program must be received to be considered for payment.

Barrel means 100 pounds of stored cranberries.

Cranberry Marketing Committee means the eight member panel that administers the Cranberry Marketing Order authorizing volume control through producer allotments.

Cranberry Marketing Order means the order regulating the handling of cranberries grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. The order is effective under the Agricultural Marketing Agreement Act of 1937.

Department or USDA means the United States Department of Agriculture.

Farm Unit means a separate and distinct farming operation that reports independent production information to the Cranberry Marketing Committee.

Person means any individual, group of individuals, partnership, corporation, estate, trust association, cooperative, or other business enterprise or other legal entity who is, or whose members are, a citizen of, or legal resident alien or aliens in the United States.

Secretary means the Secretary of the United States Department of Agriculture or any other officer or employee of the Department who has been delegated the authority to act in the Secretary's stead with respect to the program established in this part.

United States means the 50 States of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico.

§ 1476.4 Eligibility.

(a) To be eligible to receive cash payments under this part, a cranberry farm unit must:

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(1) Have produced cranberries in the United States anytime during the 1999 crop year;

(2) Not have been compensated for the same loss by any other Federal programs, except an indemnity provided under a policy or plan of insurance offered under the Federal Crop Insurance Act (7 U.S.C. 1501).

(3) Be engaged in the business of producing and marketing agricultural products at the time of application for payment.

(4) Apply for payments during the application period.

(b) A cranberry farm unit must submit a timely application and comply with all other terms and conditions of this part and instructions issued by CCC, as well as comply with those instructions that are otherwise contained in the application to be eligible for benefits under this part.

§ 1476.5 Payment application, time, and method.

(a) Payments in accordance with this part shall be made available to eligible cranberry producers based on information provided on a Cranberry Market Loss Assistance Payment Program Application, CCC-890.

(b) Payment applications must be received within the program application period announced by CCC.

(c) Cranberry Market Loss Assistance Payment Program applications may be obtained from the CCC and PSD, in person, by mail, by telephone, or by facsimile. In addition, applicants may download a copy of the Form CCC-890 at <http://www.usda.gov/dafp/psd>. In order to participate in the program authorized by this part, cranberry producers must execute the Cranberry Market Loss Assistance Payment Program Application and forward the completed original to PSD as directed on the application.

§ 1476.6 Applicant payment quantity.

(a) The applicant's payment quantity of cranberries will be determined by the CCC, based on the 1999 crop of cranberries that was produced on each farm unit, as provided by the Cranberry Marketing Committee or obtained by CCC, with the agreement of the applicant.

(b) The maximum quantity of the 1999 crop of cranberries for which producers are eligible for a payment for a farm unit under this part shall be 1,600,000 pounds.

§ 1476.7 Payment rate and cranberry farm unit payment.

(a) Payments under this part may be made to a cranberry farm unit only up to 1,600,000 pounds of 1999 cranberries produced in the United States. A payment rate will be determined after the conclusion of the application period, and shall be calculated by dividing the total available program funds for the Cranberry Market Loss Assistance Payment Program by the total 1999 eligible cranberry production submitted and approved for payment.

(b) Each cranberry farm unit payment will be calculated by multiplying the payment rate determined in paragraph (a) of this section by the farm unit's eligible production.

(c) In the event that approval of all eligible applications would result in expenditures in excess of the amount available, CCC shall reduce the payment rate in such manner as CCC, in its sole discretion, finds fair and reasonable.

(d) After receipt of the application for payment, together with required supporting documents and the determination of the payment rate, CCC will issue payments to the applicant by electronic deposit to the applicant's account. Applicants may request that payment be made by mailed check. If a payment is not made within 30 days of the close of the announced application period, CCC will pay interest at the prompt payment interest rate.

§ 1476.8 Offsets.

(a) Any payment or portion thereof due any person under this part shall be allowed without regard to questions of title under State law, and without regard to any claim or lien against a farm unit, a farm unit's cranberry production, or proceeds thereof, in favor of the producer or any other creditors, including agencies of the U.S. Government.

(b) Any payments received by a cranberry farm unit are not subject to administrative offsets or withholdings,

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including administrative offset under chapter 37 of title 31, United States Code, as provided by Public Law 106-387.

(c) The regulations governing offsets and withholdings found at 7 CFR part 1403 shall not be applicable to this part.

§ 1476.9 Appeals.

Any producer who is dissatisfied with a determination made pursuant to this part may make a request for reconsideration or appeal of such determination in accordance with the appeal regulations set forth at 7 CFR parts 11 and 780.

§ 1476.10 Misrepresentation and scheme or device.

(a) A cranberry farm unit shall be ineligible to receive assistance under this part if it is determined by the CCC to have knowingly:

(1) Adopted any scheme or device that tends to defeat the purpose of this program;

(2) Made any fraudulent representation; or

(3) Misrepresented any fact affecting a determination under this program. CCC will notify the appropriate investigating agencies of the United States and take steps deemed necessary to protect the interests of the government.

(b) Any funds disbursed pursuant to this part to any person or farm unit engaged in a misrepresentation, scheme, or device, shall be refunded to CCC, with interest together with such other sums as may become due. Any cranberry farm unit or person engaged in acts prohibited by this section and any cranberry farm unit or person receiving payment under this part shall be jointly and severally liable with other persons or operations involved in such claim for benefits for any refund due under this section and for related charges. The remedies provided in this part shall be in addition to other civil, criminal, or administrative remedies that may apply.

§ 1476.11 Estates, trusts, and minors.

(a) Program documents executed by persons legally authorized to represent estates or trusts will be accepted only

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if such person furnishes evidence of the authority to execute such documents.

(b) A minor who is otherwise eligible for assistance under this part must also:

(1) Establish that the right of majority has been conferred on the minor by court proceedings or by statute;

(2) Show that a guardian has been appointed to manage the minor's property and the applicable program documents are executed by the guardian; or

(3) Furnish a bond under which the surety guarantees any loss incurred for which the minor would be liable had the minor been an adult.

§ 1476.12 Death, incompetency, or disappearance.

In the case of death, incompetency, disappearance or dissolution of a person that is eligible to receive benefits in accordance with this part, such person or persons specified in part 707 of this chapter may receive such benefits, as determined appropriate by FSA.

§ 1476.13 Maintaining records.

Cranberry farm units making application for benefits under this part must maintain accurate records and accounts that will document that they meet all eligibility requirements specified in this part, as may be requested by CCC. Such records and accounts must be retained for 3 years after the date of payment to the cranberry farm unit under this program. Such records shall be available at all reasonable times for an audit or inspection by authorized representatives of CCC, United States Department of Agriculture, or the Comptroller General of the United States. Failure to keep, or make available, such records may result in refund to CCC of all payments received plus interest thereon, as determined by CCC.

§ 1476.14 Refunds; joint and several liability.

(a) In the event there is a failure to comply with any term, requirement, or condition for payment arising under the application, or this part, and if any refund of a payment to CCC shall otherwise become due in connection with the application, or this part, all payments made under this part to any

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cranberry farm unit shall be refunded to CCC together with interest as determined in accordance with paragraph (c) of this section and late payment charges as provided in part 1403 of this title.

(b) All persons signing a cranberry farm unit's application for payment as having an interest in the farm unit shall be jointly and severally liable for any refund, including related charges, that is determined to be due for any reason under the terms and conditions of the application or this part with respect to such operation.

(c) Interest shall be applicable to refunds required of any person under this part if CCC determines that payments or other assistance was provided to a person who was not eligible for such assistance. Such interest shall be charged at the rate of interest that the United States Treasury charges the CCC for funds, from the date CCC made such benefits available to the date of repayment or the date interest increases as determined in accordance with applicable regulations.

(d) Late payment interest shall be assessed on all refunds in accordance with the provisions of, and subject to the rates prescribed in, 7 CFR part 792.

(e) Any excess payments made by CCC with respect to any application under this part must be refunded.

(f) In the event that a benefit under this part was provided as the result of erroneous information provided by any person, the benefit must be repaid with any applicable interest.

PART 1477—1998 SINGLE-YEAR AND MULTI-YEAR CROP LOSS DISASTER ASSISTANCE PROGRAM

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- 1477.201 Single-year crop losses.
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Subpart C—Multi-Year Crop Loss Disaster Assistance Program

- 1477.300 Multi-year crop losses.

AUTHORITY: Sec. 1101 and 1102 of Pub. L. 105-277, 112 Stat.2681; 15 U.S.C. 714b and 714c.

SOURCE: 64 FR 18554, Apr. 15, 1999, unless otherwise noted.

Subpart A—General Provisions

§ 1477.101 Applicability.

(a) This part sets forth the terms and conditions applicable to the 1998 Crop Loss Disaster Assistance Program. Under sections 1101 and 1102 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 ("1999 Act") (Pub. L. 105-277, 112 Stat. 2681), the Secretary of Agriculture will make disaster payments available to certain producers who have incurred losses in quantity or quality of their crops due to disasters. Producers will be able to receive benefits under this part for losses to 1998 crops, or losses occurring in at least 3 years for which payments were received for the period 1994 through 1998, as determined by the Secretary. Accordingly, this part contains three subparts. Subpart A contains general provisions applicable to both the single-year and multi-year aspects of the 1998 Crop Loss Disaster Assistance Program, which are contained in Subparts B and C, respectively.

(b) In accordance with section 1102(g)(2) of the 1999 Act, the Secretary has authorized use of a portion of the funds authorized by the Act to establish crop insurance premium discounts for the 1999 crop year (2000 crop year for citrus fruit, avocados in California,